



TOWN OF

HARWICH

732 Main Street
Harwich, MA 02645

CONSERVATION COMMISSION

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HARWICH CONSERVATION COMMISSION

APRIL 20, 2016

DONN B. GRIFFIN ROOM
HARWICH TOWN HALL
6:30 PM

MINUTES

PRESENT: Walter Diggs, Chairman; Robert Sarantis; John Rossetti; Carolyn O'Leary; Brad Chase; Ernie Crabtree and Amy Usowski, Conservation Administrator.

ABSENT: Robert Hartwell

OTHERS PRESENT: Linda Cebula, BOS; Michael Lach, Harwich Conservation Trust

CALL TO ORDER

6:31 PM by Chairman Walter Diggs

6:31 Presentation and Possible Vote to Support Proposal

Michael Lach of the Harwich Conservation Trust will present the Commission with a location of a proposed walking trail on the newly acquired acreage that is now part of the Bells Neck Conservation Area. Includes removal of old fence, installation of new split rail fence, and a small staircase.

Mr. Lach explained the design plan for the proposed walking trail connection in the area of Bells Neck.

Amy Usowski said that this plan has been a long time coming. She said that the land is under the HCC care and custody. The only area needing care is between Numbers 3 and 4 of the map, all of which is outside the 50' buffer. A split rail fence will delineate the walking path and not inhibit wildlife. It has not been determined if Natural Heritage approval is required.

Bob Sarantis asked if the town would be getting rid of the chain link fence, and if the walk would be on the bike path to make the connection. Mr. Lach answered yes to both questions.

Brad Chase asked if Mr. Lach represented the HCC. Mr. Lach said no, he represents the Harwich Conservation Trust.

Mr. Lach explained the dimensions of the rail trail and VCR land (state owned land) in relation to the town's connector.

Amy Usowski stated that the area is a priority wildlife habitat and requires application and approval of Natural Heritage.

Motion made by Bob Sarantis to approve the project for improvements to the walking trail at Bells Neck subject to Natural Heritage approval. Seconded by Brad Chase. Vote: 6-0-0.

HEARINGS

NOTICE OF INTENT

6:45. Town of Harwich, John Rendon, Harbor Master, 715 Route 28, Map 15, Parcel T3 – Reconstruction of existing municipal marina in Saquatucket Harbor as current timber float system is unsafe and has exceeded its reasonable service life. Marina provides berthing for 191 vessels of which 4 are passenger boats, 14 are commercial and 7 are charter boats.

Presenter: Kevin Buruchian. Bourne Consulting and Engineering

Mr. Buruchian described the plan at Saquatucket Harbor to expand the slips and expand the ramps to make it ADA accessible; dredging to accommodate larger vessels and prove a turn in the basin.

Amy Usowski asked how concrete ramps float. Mr. Buruchian explained that the shell is concrete and that there is a floating interior material (three sided concrete dock). Ms. Usowski also asked if work 25' off the marsh will have an impact on the basin. Answer: No impact to the marsh. Ms. Usowski asked that a site plan with flags be done at the time work is to take place to keep limit of work out 25'. She also stated that there is a Time of year Restriction to protect mapped shellfish and habitat for rare species. Mass Division of Marine Fisheries has recommended that no in-water or silt-producing activities take place between January 15th and June 30th of any year.

Ernie Crabtree inquired regarding discussions with ferry owners. Mr. Buruchian said that discussions with ferry owners has been done.

John Rossetti inquired regarding the increase in slips. Mr. Buruchian said the new marina will have a total of 200 slips and he described their size and locations.

Bob Sarantis asked if the dredged sand could be reused. Answer: It depends on whether or not there are contaminants in the dredged material. Some may be reused, but if not it will be taken off shore with permitting.

Carolyn O'Leary asked if there were chemicals in the dredge. Amy Usowski said that would be determined in the next phase of testing. If need be, the matter would be brought before HCC again for "de-watering".

Bob Sarantis discussed water elevation.

Brad Chase stated that if sediment is "de-watered" here, they will have to come back to HCC to condition for re-locating oysters.

Amy Usowski asked if dredging would be box cut or slope. Answer: Stage slope. Ms. Usowski asked if we have a file number. She checked on line before noting the file number on the permit.

Motion to approve the project at Saquatucket Harbor made by Bob Sarantis with numerous conditions noted by HCC Administrator to be on the Orders of Condition. Seconded by Brad Chase. Vote: 6-0-0.

REQUEST FOR DETERMINATION OF APPLICABILITY

7:15 Charles & Cheryl Barnes, 18 South Chatham Road, Map 25, Parcel U4-5 - Construct addition and porch to an existing dwelling within 100' of coastal bank.

Presenter: George A. Riely, Land Design Associates.

Mr. Riely explained the project and said that he believes the project will not have an adverse effect on the coastal bank.

Amy Usowski said that they may have to take down two pitch pines and condition drywell run off. There is no need for mitigation.

Ernie Crabtree addressed issue of crawl space on concrete tubes.

Motion made by Bob Sarantis to approve the project for 18 South Chatham Road. Seconded by John Rossetti. Vote: 6-0-0.

NOTICE OF INTENT

7:23 Colman & Ann Walsh, 3 Littlefield Pond Road, Map 77, Parcel C2-A - Construction of a single family dwelling including septic system, driveway pool with patio and retaining wall.

Presenter: Dan Ojala, Down Cape Engineering, Inc.

Mr. Ojala explained the project and said that Natural Heritage has determined a "no take" condition; and no impact on wildlife.

Ms. Usowski said that it is not a vernal pool, but that we just don't know. She has concerns regarding the disturbance within the 50' to 100' zone. She is also concerned about minimizing the removal of trees and states that HCC usually requires mitigation for disturbance in the 0-100' buffer.

Ms. Usowski would like the pool pulled back away from the wetland, perhaps by moving the driveway somewhat. She said that it is a nicely vegetated with no invasives and she would like to see it left natural. She noted that the property next door on Lot 3A has cut into the resource without a permit and she will address the issue with the owners.

Mr. Ojala said he is willing to move the eastern limit of work which would tighten up the area.

Ernie Crabtree addressed roof drywells on the plan.

Mr. Ojala said that what once was a bog is now a forest.

John Rossetti asked for clarification of the Natural Heritage determination regarding the vernal pool.

Amy Usowski states that on town owned property she sends information to the state. On private property it is not documented. Home owners can request mapped vernal pools on their own property.

Chairman Diggs inquired regarding the pool specifics. Mr. Ojala said that it would be a salt system; low chlorine cartridge filter, and that roof run off will be handled by dry wells.

Ms. Usowski said pool water would be conditioned to be drained off site and trucked off per standard conditioning.

Bob Sarantis addressed a change on the plan for a deck which is now a porch. He also said he is concerned regarding taking down of all the nice trees for a pool in a resource area in the 0-50' buffer. He also addressed the retaining wall construction.

Ms. Usowski said the retaining wall construction could be condition for sonar tubes. Mr. Ojala said that the area could be tightened up a bit, but that they needed a little area to let sunlight in. Ms. Usowski said that a buffer strip could be conditioned.

Mr. Sarantis said that he would like every tree to be taken down marked. A pool needs a lot of space and it impacts the taking of trees.

Ms. Usowski addressed the issue of hardscape around the pool.

Carolyn O'Leary asked if the town requires a fence around the pool. Answer: Yes, 4' high. Ms. O'Leary said she agrees with other Commissioners, and would like to see it all set back. She is concerned for size and impact on a wetland resource.

Brad Chase agrees with other Commissioners that the project is:

- Right on 50' buffer
- Wildlife habitat
- By Law Buffer Zone

He thinks it is a large project and at least mitigation should be required.

Mr. Ojala said that they could move 3' back. It is a filled in cranberry bog.

Mr. Chase stated that it is a protected wetland and the project is a large footprint. He would like discussion of mitigation options; a 10' buffer strip; square foot disturbance mitigation and 2:1 mitigation. He feels strongly that HCC needs to protect the wetland per By Law.

Amy Usowski recommended continuing to allow for discussion with owner applicants.

Motion made by Bob Sarantis to continue the project at 3 Littlefield Pond Road to May 11. Seconded by Ernie Crabtree. Vote: 6-0-0.

NOTICE OF INTENT

7:25 Richard Kaiser, 4 Spring Tide Lane, Map 38, Parcel A1-7 - Proposed land management plan including restoration. Removal of invasive plan species restorative native species; on-bank soil stabilization measures.

Presenter: Jen Crawford, Jenick Studio

Ms. Crawford said she is prepared to come back after Natural Heritage determination. She explained the plan for removing invasives and diseased trees.

Amy Usowski it was nice to see a land management plan. The applicants have done a lot of work over the years. Gull warps have taken out oak trees in the past and some of the area has been mismanaged. The new plan will help stability and have a positive impact.

Brad Chase asked if there was any room for a red cedar in the optional restoration area. Ms. Crawford said they could put Eastern Red Cedar in, but that there are some budget constraints, and she is not sure it would be as robust in that area. Mr. Chase said he was concerned about the small amount of shrubs in the area.

Motion made by Bob Sarantis to continue the project for 4 Spring Tide Lane pending determination of Natural Heritage. Seconded by Carolyn O'Leary. Vote: 6-0-0.

NOTICE OF INTENT, Continuance...

8:19 Peter & Valerie McNeely, 12 Mill Road, Map 8, Parcel T4 - This is an after-the-fact filing for the removal of invasive plant species located in the are above and within the buffer zone to a coastal bank. Replant area with low growing native species for view enhancement.

Amy Usowski reports that the area has not leafed out yet and that they are requesting a continuance.

Motion made by Bob Sarantis to continue 12 Mill Road until area has leafed out and growth is apparent. Seconded by Ernie Crabtree. Vote: 6-0-0.

NOTICE OF INTENT, Continuance...

8:24 Alfred & Eileen Weaver, 23 Wequasset Road, Map 5, Parcel K1-42 - Grading in back yard with use of fill; vegetate area, installation of garden; elevate 2 leading sections of exiting walkway to dock; work falls within land subject to coastal storm flowage.

Presenter: Mark Burges, Shorefront Consulting

Mr. Burges said that on behalf of his clients the overall project scope has been reduced. He point to the following revisions to the plan:

- Proposed grading has been scaled back a little on the south side, and a lot on the north side. Total yardage of fill now is about 90 cubic yards.
- Two trees on the north side need to be removed.
- One tree on the north side and the pine tree in the middle need to be de-vined.
- The garden is 4' x6'.
- The swing set is going on the lawn beside the patio. The swing set will be sized to include 2 swings only, and will be portable for winter storage in the garage.
- The two bushes initially set to be removed on the south side will stay, and no fill goes beyond the existing edge of planted vegetated buffer.
- The grading will go to the elevated walkway sections; they are elevated to the dock elevation of 5.2'. No steps will be needed because the walkway is lower than the back yard.
- There are two High Tide bushes on the edge of the buffer that need to be moved (transplanted) a little further seaward to get them out of the fill area.
- The notes have been revised to reflect all of the above changes.
- The areas of fill are now only 1,375 square feet (to elevation 7'). The area beyond that is the existing mulched vegetated buffer strip that will be increased from 540+/- sq. ft. to 1,070 +/- sq. ft.

Amy Usowski said she appreciated the clarification and addressed the garden and chicken wire issues. She also addressed the Bordering Vegetated Wetland – marsh mitigation on the slope and she recommends low shrubs to keep children off and, said it would create a natural barrier. She suggested shrubs rather than beach grass. Mr. Burgess said he is agreeable.

In the area of invasives, Ms. Usowski recommends Red Cedar to replace the severely compromised trees. She said that as long as activity is confined to the existing lawn area, she is okay with it. A Cape Cod grass mix with high fescue content was discussed.

Mr. Sarantis asked why putting gardens in pots and putting the swing set on the deck is not an option. Answer: Putting the swing set on the deck may present a problem in securing it.

Carolyn O’Leary said she is concerned about what is put under the swing set (no rubber foam).

Brad Chase said he does not support 90 cubic yards of fill so close to the marsh. The lawn is in the 0-50’ buffer, he does not feel the By Laws support putting fill in.

Mr. Burges argues that it is a previously disturbed area, and that it will not have a significant impact. Discussion of the 90 Cubic yards going on both north and south sides, not just on the south side.

Walter Diggs expressed concern about the sprinkler system. Ms. Usowski said that she thinks it pre-dates regulations, but that it cannot be expanded.

Ernie Crabtree said that if it is not approved the walkway stays on the ground. If invasive are removed, a lot of good is to be gained.

Brad Chase said he agrees, but that it does not warrant 90 cubic yards of fill. Discussion followed regarding invasives; buffer shrubs; Carolina Rose; and moving the garden a few feet away from the buffer into the lawn space.

Discussion of a motion. Brad Chase does not think the improvements merit a variance. He states that a hardship is required to warrant a variance. Bob Sarantis said he agrees with Brad Chase.

Motion made by Carolyn O’Leary to approve the project for 23 Waquasset Road with increase in border vegetation; moving garden into lawn area; no permanent swing set; clean out invasives; raise dock off the ground and include fill. Seconded by Ernie Crabtree. Vote: 3-3-0. Motion failed.

After further discussion, new motion made by Carolyn O’Leary to continue the project for 23 Waquasset Road for further review and to take out the sprinkler. Seconded by Ernie Crabtree. Vote: 6-0-0.

ORDERS OF CONDITION

9:15 Town of Harwich, 343 Lower County Road, Map 12, Parcels Y1-58A, Y1-58-2, Y1-58B – Repave Allen Harbor parking lot and replace drainage system with porous pavement system; project adjacent to Allen Harbor and the coastal bank.

Motion made by Brad Chase to approve the Orders of Condition for 343 Lower County Road. Seconded by Bob Sarantis. Vote: 6-0-0.

ORDERS OF CONDITION

6:58 **Karen Agnew & John Huth, 3 Hulse Point Road, Map 6, Parcel A2-4** - Variance request from Regulations to allow for proposed work to occur within 50' no disturb zone to a coastal bank; entryway addition and 2nd story additions. Removal of existing lawn and planting of vegetated buffer strip between house and coastal bank; mitigation plantings proposed.

Motion made by Brad Chase to approve the Orders of Condition for 3 Hulse Point Road with change of expiration date. Seconded by Bob Sarantis. Vote: 6-0-0.

CERTIFICATE OF COMPLIANCE

9:18 **Richard C. Burton, Saquatucket Harbor, Main Street SE32-301**- Saquatucket Fish Boat Basin.

Motion made by Brad Chase to approve the Certificate for Compliance for Saquatucket Harbor, Main Street SE32-301. Seconded by Bob Sarantis. Vote: 6-0-0.

EXTENSION REQUEST

9:24 **Paul & Dianne Manning/Coastal Engineering Co., 16 Harbor Road, Map 8 Parcel S2-SE32-2143** - Proposed dredging and Maintenance dredging - (Requesting a 3 year extension).

Motion made by Bob Sarantis to approve the request for extension for 16 Harbor Road provision that a report of dredging and footprint be provided to HCC Administrator, Amy Usowski. Seconded by Brad Chase. Vote: 6-0-0.

MINUTES

8:26 Minutes of March 22, 2016

Motion made by Brad Chase to approve the Minutes of March 22, 2016 with correction of the spelling of "hostel" to "hostile" and the correction of font in the text. Seconded by Bob Sarantis. Vote: 5-0-1.

Motion made by Brad Chase to approve the Executive Session Minutes of March 22, 2016. Seconded by Bob Sarantis. Vote: 5-0-1.

DISCUSSION - REQUEST FOR RAISED GARDEN IN COMMUNITY GARDEN

9:29 Motion made by Bob Sarantis to approve request by an Eagle Scout to build a 4' x6' or 4' x 8' raised garden for wildflowers at the Community Garden on Sisson Road to benefit bees. Seconded by Ernie Crabtree. Vote: 6-0-0.

DISCUSSION - BELLS NECK

Discussion of current lease expiring in one month. Current lessee is giving up the lease. Another party is interest in a lease and wants to reduce weeds by flooding the bog. At issue is keeping the fish (herring) out of the bog.

Brad Chase said that Marine Fisheries can put up a net to prevent herring from entering the bog. He said he likes Ms. Usowski's idea of investigating options. The issue of trapped herring attracting sea gulls was discussed.

The economic viability of the bog was discussed. Ms. Usowski said that a Public Hearing would be needed to discuss options.

Motion made by Brad Chase to allow flooding the bog with a net and monitoring when herring are released. Seconded by Ernie Crabtree. Vote 6-0-0.

Motion made by Brad Chase to exit Regular Session of HCC and enter Executive Session at 9:41 PM. Seconded by Bob Sarantis. Roll Call Vote in Favor: Walter Diggs; Robert Sarantis; John Rossetti; Carolyn O'Leary; Brad Chase; Ernie Crabtree.

Minutes transcribed by Marie Hickey, Board Secretary

**SIGN IN SHEET
Donn B. Griffin Room
April 20, 2016**

**Kevin Buruchian
Michael Ball
Jim Sten
Dan Ojala
George Riley
Mark Burgess
Nick Crawford
Jen Crawford**

**Bourne Consulting Engineering
Marsh Matters Enviro.**

Shore Front Consulting

Jenick Studio